

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CLARENCE RAY ALLEN,

Petitioner,

v.

D. SAMUEL,

Respondent.

Case No. 1:21-cv-01088-DAD-EPG-HC

ORDER GRANTING MOTION FOR
EXTENSION OF TIME

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(ECF No. 15)

Petitioner is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On March 3, 2022, the undersigned issued findings and recommendation to deny the petition for writ of habeas corpus. (ECF No. 14). On March 28, 2022, Petitioner filed the instant motion for an extension of time to file objections to the findings and recommendation due to the delay in receiving the findings and recommendation. Petitioner also moves for appointment of counsel. (ECF No. 15).

There currently exists no absolute right to appointment of counsel in habeas proceedings. See, e.g., Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Anderson v. Heinze, 258 F.2d 479, 481 (9th Cir. 1958). However, 18 U.S.C. § 3006A(a)(2)(B) authorizes the appointment of counsel at any stage of the proceeding for financially eligible persons if “the interests of justice so require.” See Rule 8(c), Rules Governing Section 2254 Cases. To determine whether to

1 appoint counsel, the “court must evaluate the likelihood of success on the merits as well as the
2 ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues
3 involved.” Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

4 Petitioner argues that counsel should be appointed because he does not understand the
5 issues of his case, he has no access to the law library due to the COVID-19 pandemic, and there
6 is no inmate to assist him. Upon review of the petition, Petitioner’s filings in this matter, and the
7 instant motion for appointment of counsel, the Court finds that Petitioner appears to have a
8 sufficient grasp of his claims and the legal issues involved and that he is able to articulate those
9 claims adequately. The legal issues involved are not extremely complex, and Petitioner does not
10 demonstrate a likelihood of success on the merits such that the interests of justice require the
11 appointment of counsel at the present time.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Petitioner is GRANTED to and including June 6, 2022, to file his objections to the
14 findings and recommendation; and
15 2. Petitioner’s motion for appointment of counsel is DENIED.

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17 IT IS SO ORDERED.

18 Dated: April 4, 2022

19 /s/ Eric P. Grogg
UNITED STATES MAGISTRATE JUDGE